

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 18 2006

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RUBEN SOZA-BALDERAMA, also
known as Oscar Funez, also known as
Enrique Carcamo,

Defendant - Appellant.

No. 05-30069

D.C. No. CR-04-00066-RFC

MEMORANDUM^{*}

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, District Judge, Presiding

Submitted January 13, 2006^{**}
Portland, Oregon

Before: O'SCANNLAIN, GRABER, and BEA, Circuit Judges.

Defendant Ruben Soza-Balderama appeals from the 51-month sentence imposed upon his plea of guilty to a charge of illegal reentry after deportation, in violation of 8 U.S.C. § 1326(a). The district court sentenced Defendant after the

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

Supreme Court issued United States v. Booker, 125 S. Ct. 738 (2005), so we review for reasonableness, id. at 767.

Defendant argues that the district court erred in departing upward from Criminal History Category V to Category VI when assessing the advisory Sentencing Guidelines. Specifically, he asserts that the court improperly "considered the *number* of prior offenses rather than the *nature* of the offenses."

The record discloses, however, that the court did consider more than the mere number of prior offenses (14 previous deportations and illegal reentries). Indeed, the sentencing hearing was a model of judicial discretion, thoroughness, and care. The court systematically considered all the factors set forth in 18 U.S.C. § 3553(a) in setting the sentence. Moreover, the commentary to U.S.S.G. § 4A1.3 does not make the number of crimes irrelevant; it simply suggests additional important factors that should be, and were, taken into account.

Defendant also argues that the district court violated the guidance of § 4A1.3 by departing more than one level at a time. But that section does not limit the court to a single-level upward departure.

We conclude that the district court properly calculated the Guidelines range, relied on the appropriate statutory criteria in setting a sentence, and imposed a sentence that is reasonable.

AFFIRMED.